



# Elected Members' guide to the Freedom of Information Act 2000

- The Freedom of Information Act 2000 (FoIA) provides individuals and organisations with the right to request any recorded information held by the council.
- Recorded information includes information held in paper files, such as file notes, post its and letters, as well as information held electronically such as emails, word documents and CCTV footage.
- The council must have and maintain a [publication scheme](#), which helps the public know what information is routinely available and how they can access it.
- The FoIA aims to build trust and credibility in public authorities, ensure that the public understand how key decisions are made, and show there is accountability for the spending of public money.
- Elected Members must be aware the information that they produce or receive could be subject to disclosure under this legislation.
- The provisions of the Act are enforced by the Information Commissioner.

## How the FoIA applies to Elected Members

Elected Members in their own right are not subject to the FoIA, but there are many circumstances where information produced, received, or held by them could be liable to disclosure. If an Elected Member were to write to a council officer about an issue that related to the business of the council, then the information would be covered by FoIA.

## What about political information?

Where information produced is of a political nature, such as an election strategy, this does not relate to council business and therefore the Act would not apply.

However, there are potential 'grey' areas. For example, members **might** consider information relating to their voting intentions on the budget to be political, but it could also be argued that that same information related to the business of the council and therefore would be subject to disclosure. In these instances please liaise with IMS to help clarify the situation and determine a way forward.

## Responding to requests

If an Elected Member receives a request for information that is really intended to be a request to the council, then they should either:

- a) Advise the requester to address the request for information to the Information Management Service (IMS) [foi@gloucestershire.gov.uk](mailto:foi@gloucestershire.gov.uk); or
- b) With the agreement of the requester, pass the request for information to IMS on their behalf.

## Overview of the requirements

- The council must respond to written requests within 20 working days.
- Elected Members are responsible for the proper management of the information they hold, including being able to retrieve information that relates to council business in a timely manner. This includes supporting any requests received by the council and providing relevant information to council staff in line with statutory deadlines.
- Information generally has to be provided free of charge unless the appropriate limit of £450 (which equates to 18 hours of staff time) is reached.
- Public authorities can refuse a request where it is estimated the cost of complying, or the amount of time it would take to comply, exceeds this limit.
- Access is to information not necessarily documents, so a requester doesn't have to ask for a specific document, but can for example ask about a specific topic, author or type of information.

## Exemptions

- Information must be provided, unless there is a lawful reason not to. These reasons are set out in exemptions within the legislation and cover such things as legal professional privilege, commercial interests, and information intended for future publication.
- When applying an exemption, the content of the information must be assessed. It is likely that several tests will have to be undertaken to identify the harm and the public interest in releasing or withholding the information.

## Examples to illustrate whether information would be covered by the FoIA

- Information emailed to a council officer by an Elected Member about an education review, would be covered.
- Information relating to council business sent between Elected Members to another would be covered.
- Details of expense claims submitted to the council would be covered.
- Comments on reports which have been prepared for consideration by a council committee would be covered.
- Information sent from an elected member to another elected member, about their chances in any forthcoming local elections would not be covered.

## Examples of requests for information received by the council

- What is the estimated forecast for the council's budget for 2025/26?
- How much is spent on SEND transport cost? How much of this is for taxis'?
- How many penalty notice charges have been issued in [location]
- How many unauthorised school absences were recorded in [year] how much money was collected in fines?
- How many times have the council been the victim of a cyber-attack, what type of attack were these and how does the council protect against them.
- The number of roles in your council that are mainly or exclusively focussed on issues of equality, diversity, or inclusivity. Please provide the number of internal training courses attended by staff which pertain to the issues. Please include the name of the courses, the number of attendees, and the duration of the course.
- How many children under the age of 16 were placed in an unregulated environment in [year]? What is the recruitment agency spend on unregulated placements for children under the age of 16 in [year]?